

AMENDED IN SENATE JUNE 15, 2010

AMENDED IN ASSEMBLY APRIL 14, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 2560

Introduced by Assembly Member Brownley
(Coauthor: Senator Hancock)

February 19, 2010

An act to add Section 12001.6 to the Education Code, relating to education finance, *and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

AB 2560, as amended, Brownley. Education finance: federal tax credit bond volume cap.

Existing law assigns specified amounts of the state's 2009 federal tax credit bond volume cap to the State Department of Education and the California School Finance Authority, to be assigned and distributed to school districts, county offices of education, and charter schools, as specified.

This bill would authorize the department to assign and distribute the state's 2010 federal tax credit bond volume cap for qualified school construction bonds to or for the benefit of school districts and county offices of education and would authorize the authority to assign and distribute the state's 2010 federal tax credit bond volume cap for qualified school construction bonds to or for the benefit of charter schools, or to be further assigned and distributed to one or more issuers in the state for the benefit of charter schools, as determined by the authority.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: ~~majority~~^{2/3}. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) In 2009, the United States Congress passed and the President
4 signed into law the American Recovery and Reinvestment Act of
5 2009 (Public Law 111-5) in order to provide funding and other
6 economic stimulus to foster economic recovery among the states.

7 (b) The federal tax credit bond volume cap for qualified school
8 construction bonds is included in the federal American Recovery
9 and Reinvestment Act of 2009 and can be used to lower the cost
10 of financing the construction, rehabilitation, or repair of a public
11 school facility or for the acquisition of land where a school will
12 be built.

13 (c) On March 17, 2010, the United States Department of the
14 Treasury released the second ~~and final~~ allocation authority of
15 eleven billion dollars (\$11,000,000,000) in federal tax credit bond
16 volume cap for *the issuance of* qualified school construction ~~bond~~
17 *bonds*, of which six billion six hundred million dollars
18 (\$6,600,000,000) will be allocated directly to the states and four
19 billion four hundred million dollars (\$4,400,000,000) will be
20 allocated to 103 large, local educational agencies based upon the
21 enrollment of pupils who qualify for the federal free or reduced
22 price meal program.

23 (d) In order to allocate the seven hundred twenty million
24 fifty-eight thousand dollars (\$720,058,000) in federal tax credit
25 bond volume cap for qualified school construction bonds provided
26 to California in 2010, this act is necessary to provide the authority
27 to the department and the California School Finance Authority to
28 make distributions to local educational agencies and eligible charter
29 schools.

30 SEC. 2. Section 12001.6 is added to the Education Code, to
31 read:

32 12001.6. (a) The Legislature hereby finds and declares that
33 the federal tax credit bond volume cap for qualified school

1 construction bonds designated ~~for the state to California~~ by the
2 federal American Recovery and Reinvestment Act of 2009 (Public
3 Law 111-5), together with Internal Revenue Service Notice
4 2010-17 issued pursuant thereto, does not constitute federal
5 moneys, federal funds, or funds of any kind for any purpose under
6 this code.

7 (b) The department is authorized to assign and distribute the
8 state's 2010 federal tax credit bond volume cap for qualified school
9 construction bonds to or for the benefit of school districts and
10 county offices of education in the state.

11 (c) *There is hereby assigned to the department six hundred*
12 *fifty-one million six hundred fifty-two thousand dollars*
13 *(\$651,652,000) of the state's 2010 federal tax credit bond volume*
14 *cap for qualified school construction bonds.*

15 (1) *A school district or county office of education may apply*
16 *for the federal tax credit bond volume cap for qualified school*
17 *construction bonds if it meets all of the following eligibility criteria:*

18 (A) *The project for which the federal qualified school*
19 *construction bond authorization may be applied received approval*
20 *from the Division of the State Architect before the application was*
21 *submitted.*

22 (B) *The project is funded by local voter approved bonds issued*
23 *by the school district. A county office of education and a school*
24 *district with an enrollment of 2,500 or less may use other forms*
25 *of financing with the submission of a resolution adopted by the*
26 *county board of education or governing board of the school district*
27 *authorizing the issuance of the financing.*

28 (C) *The governing board of the school district or county board*
29 *of education has adopted a resolution committing the district or*
30 *county office to meet or exceed the criteria of the Collaborative*
31 *for High Performance Schools or the criteria on sustainable school*
32 *design, construction, and operation of the Leadership in Energy*
33 *and Environmental Design and commits the district or county*
34 *office to ensure that every new school, new building, and major*
35 *modernization project meets those criteria.*

36 (2) *A school district or county office of education that received*
37 *a 2009 federal tax credit bond volume cap for qualified school*
38 *construction bonds is not eligible to apply.*

39 (3) *A school district or county office of education that received*
40 *a 2009 or 2010 federal tax credit bond volume cap for qualified*

1 *school construction bond allocation from the United States*
2 *Department of the Treasury is not eligible to apply.*

3 *(4) Five business days after the enactment of this legislation,*
4 *the department shall post the application form on its Internet Web*
5 *site.*

6 *(A) An application must be submitted via certified mail.*

7 *(B) An application may not be postmarked until 20 business*
8 *days after the enactment of this legislation.*

9 *(C) An application shall include the total number of enrolled*
10 *pupils who qualify for the federal free and reduced priced meal*
11 *program and the total overall pupil enrollment for the 2008–09*
12 *school year.*

13 *(5) An application not meeting the conditions set forth in*
14 *paragraphs (1) and (4) shall be returned to the applicant.*

15 *(6) Applications meeting the conditions set forth in paragraphs*
16 *(1) and (4) shall be accepted on a first-come-first-served basis by*
17 *date of postmark. If this program is oversubscribed, order of*
18 *allocation shall be established using the following criteria:*

19 *(A) First, earliest date of postmark.*

20 *(B) Second, the greater percentage of pupils who qualify for*
21 *the federal free and reduced priced meals program and are*
22 *enrolled in the applying school district or county office of education*
23 *in the 2008–09 school year. The department shall certify the*
24 *number of pupils who qualify and the overall enrollment and*
25 *calculate the percentage to the nearest one-hundredth of 1 percent.*

26 *(7) The department shall authorize the 2010 federal tax credit*
27 *bond volume cap for qualified school construction bonds no sooner*
28 *than December 1, 2010.*

29 *(8) The department shall maintain a waiting list of eligible*
30 *school districts and county offices of education that did not receive*
31 *an allocation in the order established pursuant to paragraph (6).*

32 *(9) An applicant may not apply for more than twenty-five million*
33 *dollars (\$25,000,000) of 2010 federal tax credit bond volume cap*
34 *for qualified school construction bonds.*

35 *(10) A school district or county office of education applying for*
36 *2010 federal tax credit bond volume cap for qualified school*
37 *construction bonds authorization shall certify in its application*
38 *that it will fulfill all of the federal qualified school construction*
39 *bond program requirements.*

1 (11) Fifteen days after bond issuance, the school district or
2 county office of education shall submit to the department a copy
3 of the appropriate federal Internal Revenue Service Form,
4 Information Return for Tax-Exempt Bonds, as confirmation of
5 issuance.

6 (12) Thirty days after the completion of the expenditure the
7 recipient shall submit a completion report to the department. The
8 completion report must be certified by the bond counsel of the
9 school district or county office of education.

10 (13) If any or all of the federal qualified school construction
11 bond authorizations to a school district or county office of
12 education are not issued within six months from the date of
13 authorization, any or all unused federal qualified school
14 construction bond authorizations shall revert to the department.
15 No extensions shall be provided.

16 (A) The department shall reallocate any remaining federal
17 qualified school construction bond allocation to school districts
18 or county offices of education that were eligible and applied for
19 the authorization but did not receive an allocation.

20 (B) Reverted 2010 federal tax credit bond volume cap for
21 qualified school construction bonds shall be allocated to school
22 districts or county offices of education pursuant to the order of
23 priority established by paragraph (6).

24 (C) The department shall allocate reverted federal qualified
25 school construction bond authorizations as they are available and
26 until all are issued.

27 ~~(e)~~

28 (d) The California School Finance Authority, established
29 pursuant to Section 17172, is authorized to assign and distribute
30 the state's 2010 federal tax credit bond volume cap for qualified
31 school construction bonds to or for the benefit of charter schools,
32 or to be further assigned and distributed to one or more issuers in
33 the state for the benefit of charter schools, as determined by the
34 authority.

35 (1) There is hereby assigned to the California School Finance
36 Authority, established pursuant to Section 17172, sixty-eight
37 million four hundred six thousand dollars (\$68,406,000) of the
38 state's 2010 federal tax credit bond volume cap for qualified school
39 construction bonds, to be issued for the benefit of charter schools,
40 or to be further assigned and distributed to one or more issuers

1 *in the state for the benefit of charter schools, as the authority shall*
2 *determine.*

3 *(2) The parameters specified in “Borrowing Authority*
4 *Parameters and Application,” dated February 10, 2010, as*
5 *developed by the California School Finance Authority and*
6 *referenced in Resolution 10-04 of the authority, shall apply to all*
7 *applications submitted to the California School Finance Authority*
8 *for the state’s 2010 federal tax credit bond volume cap for qualified*
9 *school construction bonds. If an applicant uses any 2010 federal*
10 *tax credit bond volume cap in conjunction with a bond that will*
11 *serve as a local match for purposes of the Charter School Facilities*
12 *Program established by Section 17078.52, the applicant, in*
13 *addition to the requirements of this section, shall comply with all*
14 *of the requirements of the Charter School Facilities Program.*

15 *SEC. 3. This act is an urgency statute necessary for the*
16 *immediate preservation of the public peace, health, or safety within*
17 *the meaning of Article IV of the Constitution and shall go into*
18 *immediate effect. The facts constituting the necessity are:*

19 *In order to access federal stimulus tax credits at the earliest*
20 *possible opportunity, it is necessary that this act take effect*
21 *immediately.*